

## **A. Introduction**

### **1. Definition of Reorganization**

An action to reorganize districts means an action to form, dissolve, or lapse a school district; to annex all or part of the territory of one district to another district; to transfer all or part of one district to another district; to unify or deunify a school district; to otherwise alter the boundaries of a school district; or any combination of these actions. (EC 35511)

Certain changes to school district boundaries are not considered reorganizations of districts. These changes are merely corrections and relocations of boundary lines that conflict or are incorrectly described or that are indefinite or conflict with lines of assessment because of the resubdivision of land or other property change. In these cases the board of supervisors (or the county board of education, if responsibilities have been transferred pursuant to EC 1043 and 1080) may correct and relocate the boundaries to follow definite, established property lines. These changes must conform as nearly as practicable to the general location of the former boundaries and must be made in such a manner that most of the affected parcel or property determines the district in which the parcel or property will be located. (EC 2600) (When such changes are made, local, county, and state government agencies are required to be notified. See Section C, item 8.)

### **2. Basic Types of Reorganization**

Three types of reorganization are most common:

- a. Transfer of a portion (or portions) of one district to another. Annexations and unionizations are special cases of a territory transfer where an entire district is transferred to another district.
- b. Unification that involves reorganizing entire elementary and high school districts or portions of them into unified districts serving kindergarten through grade twelve or reorganizing or splitting existing unified districts.
- c. Unification where one of the feeder elementary school districts is completely within a high school district and is excluded from action to unify the portion of the high school district in which it is contained. (EC 35542) The governing board of the elementary school district must receive approval for exclusion from the State Board of Education.

### **3. Overall Process**

This chapter discusses the major requirements and procedures of the reorganization proposal, review, and approval process. It describes the ways in which proposals may be initiated, reviewed by the county committee, and presented at public meetings and the steps involved in bringing an action to approval with or without State Board of Education involvement.

Section B, “Process: Quick-Reference Charts,” provides a succinct reference for readers to learn quickly what is involved in the various types of reorganization proposals. Each type of proposal is summarized in an outline that identifies the necessary steps of the process, including important legal references. The flowcharts depict the sequence of those necessary steps. The four types of reorganization proposals are as follows:

- a. Territory transfers initiated by owners of uninhabited territory, by a 25 percent petition, or by district governing boards. A 25 percent petition process is used when the owners of uninhabited territory or the district governing board or 25 percent of the registered voters in the affected area petition to transfer territory or unify or when registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election petition to reorganize a district with over 200,000 a.d.a. into two or more districts.
- b. Territory transfers initiated by a 10 percent petition or county committee. A 10 percent petition process is used when county committees or 10 percent of the registered voters in an entire school district wish to transfer territory or unify or when 5 percent of the registered voters petition to reorganize a district with over 200,000 a.d.a. into two or more districts.
- c. Unifications initiated by owners, a 25 percent petition, district governing boards, or an 8 percent vote petition in districts with over 200,000 a.d.a.
- d. Unifications initiated by a 10 percent petition, a county committee, or a 5 percent petition in districts with over 200,000 a.d.a.

The criteria for approval of reorganization proposals are presented in Chapter 6.

Section C, “Process: Expanded Details,” presents a more detailed description of the reorganization process.

Section D, “Environmental Concerns,” provides information on the responsibilities of any public agency undertaking a project that could potentially have an impact on the environment (CEQA requirements). A quick-reference chart is included on the process involved when a county committee is the lead agency.

#### 4. Reorganization Involving Two or More Counties

In any action to reorganize school districts that are located in more than one county, the same procedures are required and shall take place in both counties. Hearings may be conducted in each county or jointly in either county as it appears most convenient and practical. Any action regarding the reorganization may be taken during or after a joint hearing. If separate hearings are held, action may be taken only after findings of the hearings in each county have been transmitted to the other counties. (EC 35520 through 35524)

If plans and recommendations for district reorganization involve territory under the jurisdiction of the superintendent of an adjacent county, the county committee of the adjacent county is requested to concur with the plans and recommendations.

Regardless of concurrence, or after 60 days' notice of nonconcurrence, the plans and recommendations must be submitted to the State Board of Education for a decision.  
(EC 35723 through 35724)

See Appendix C for further details of the procedures that must be followed when two or more counties are involved.

## **B. Process: Quick-Reference Chart 5.1**

### **TERRITORY TRANSFERS INITIATED BY OWNERS OF UNINHABITED TERRITORY, A 25 PERCENT PETITION, OR A DISTRICT GOVERNING BOARD**

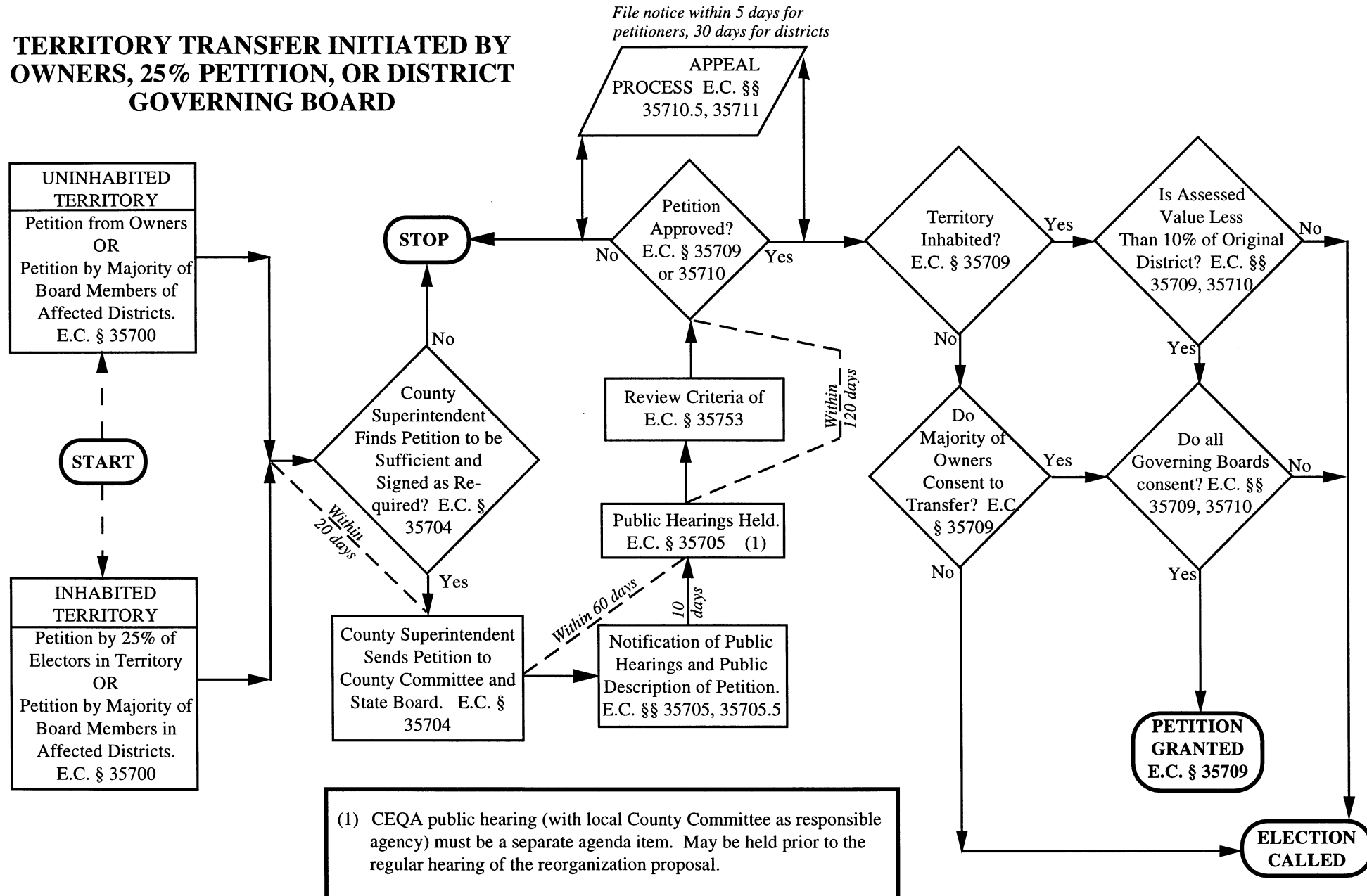
(See Flowchart A.)

1. Initiation of Proposals for Territory Transfer (EC 35700)
  - a. Petition signed by 25 percent of the registered voters in the area proposed for reorganization or
  - b. Petition signed by the owner(s) of uninhabited territory or
  - c. Petition signed by governing boards of all affected districts
2. Determination of Sufficiency and Transmittal of Petition Within 20 Days of Receipt (EC 35704)
  - a. County superintendent must determine the sufficiency of the petition.
  - b. A petition signed by 25 percent of the electorate must be verified by the county elections department.
  - c. The county committee and the State Board of Education must be notified when a valid petition is received.
3. Public Hearings (EC 35705, 35705.5). A public hearing in each affected district must be held by the county committee within 60 days of receipt of a valid petition.
4. CEQA Review (Public Resources Code sections 21000 through 21177). The county committee must determine the impact that the territory transfer may have on the environment.
5. County Committee Study of the Territory Transfer (EC 35753). The county committee study must determine the impact of the territory transfer on the criteria listed in EC 35753.
6. Approval Process (EC 35706, 35709, 35710)
  - a. All territory transfers are decided at the local level.
  - b. If all the criteria of EC 35753 are substantially met within 120 days of the first public hearing, the county committee must approve or disapprove the petition to transfer territory.
  - c. If either of the following two conditions exists, the county committee may approve the territory transfer without an election:

- i. The territory is uninhabited, the majority of the owners consent to the transfer, and the governing boards of all affected school districts consent to the transfer.
  - ii. The territory is inhabited, the territory constitutes less than 10 percent of the assessed valuation of the original district, and the governing boards of all affected districts consent to the transfer.
- d. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in an area determined by the county committee.

# FLOWCHART A

## TERRITORY TRANSFER INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARD



## **B. Process: Quick-Reference Chart 5.2**

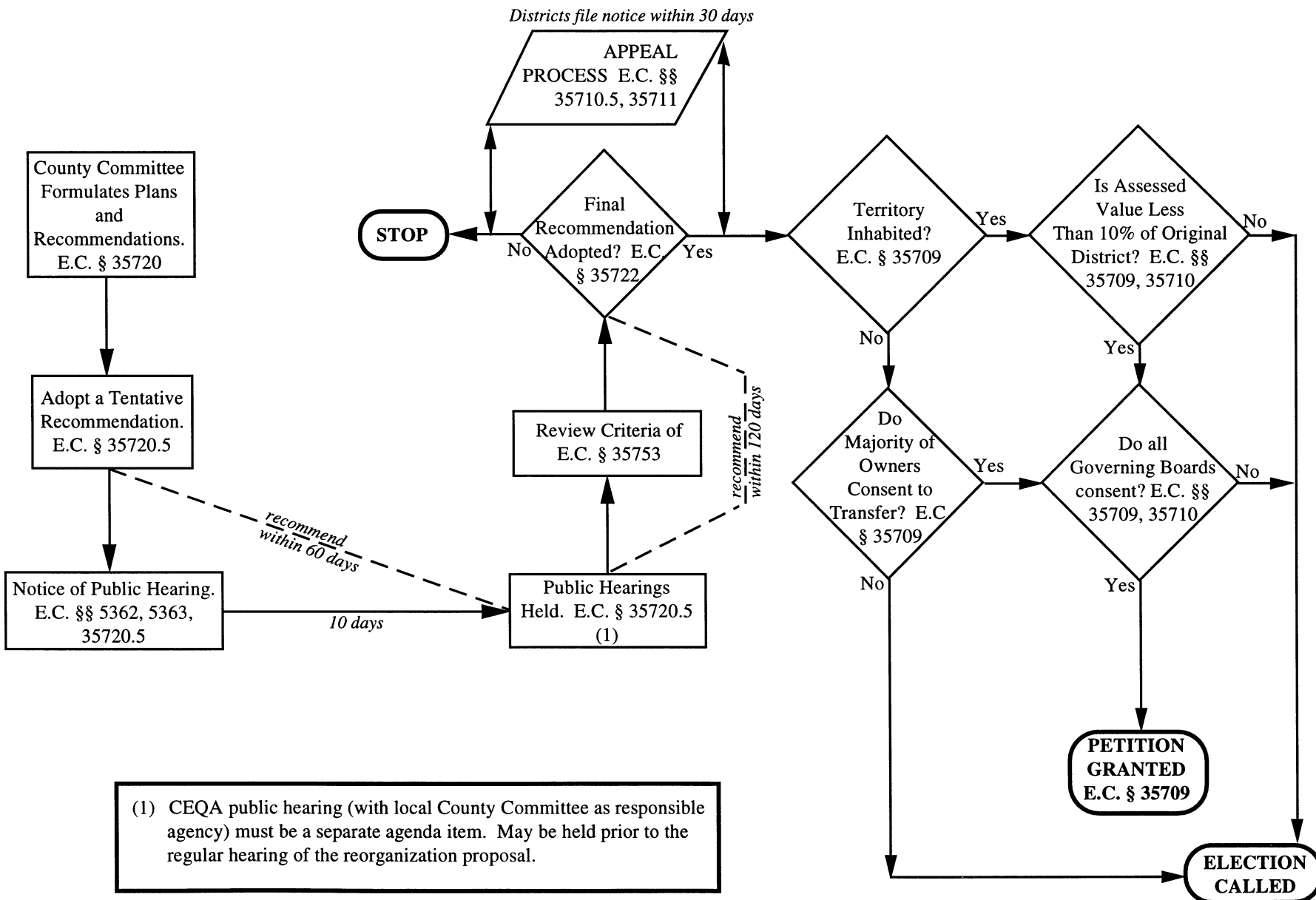
### **TERRITORY TRANSFERS INITIATED BY A COUNTY COMMITTEE**

(See Flowchart B.)

1. Initiation of Proposals for Territory Transfer by County Committee Plans and Recommendations (EC 35720)
2. Public Hearings (EC 35720.5). A public hearing in the area proposed for reorganization must be held by the county committee. It is recommended that this public hearing be held within 60 days of the committee's adoption of a tentative recommendation.
3. CEQA Review (Public Resources Code sections 21000 through 21177). The county committee must determine the impact that the territory transfer will have on the environment and hold public hearings in conjunction with the reorganization hearing.
4. County Committee Study of the Territory Transfer (EC 35722, 35709, 35710). The county committee study must determine the impact of the territory transfer on the criteria listed in EC 35753.
5. Approval Process (EC 35709, 35710, 35722)
  - a. All territory transfers are settled at the local level.
  - b. Within 120 days of the public hearing, the county committee should adopt a final recommendation.
  - c. If either of the following two conditions is met, the county committee may approve the territory transfer *without* an election:
    - i. The territory is uninhabited, the owners consent to the transfer, and the governing boards of all affected school districts consent to the transfer.
    - ii. The territory is inhabited, the territory constitutes less than 10 percent of the assessed valuation of the district, *and the* governing boards of all affected districts consent.
  - d. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in the area as determined by the county committee.

# TERRITORY TRANSFER INITIATED BY COUNTY COMMITTEE

## FLOWCHART B





**B. Process: Quick-Reference Chart 5.3**

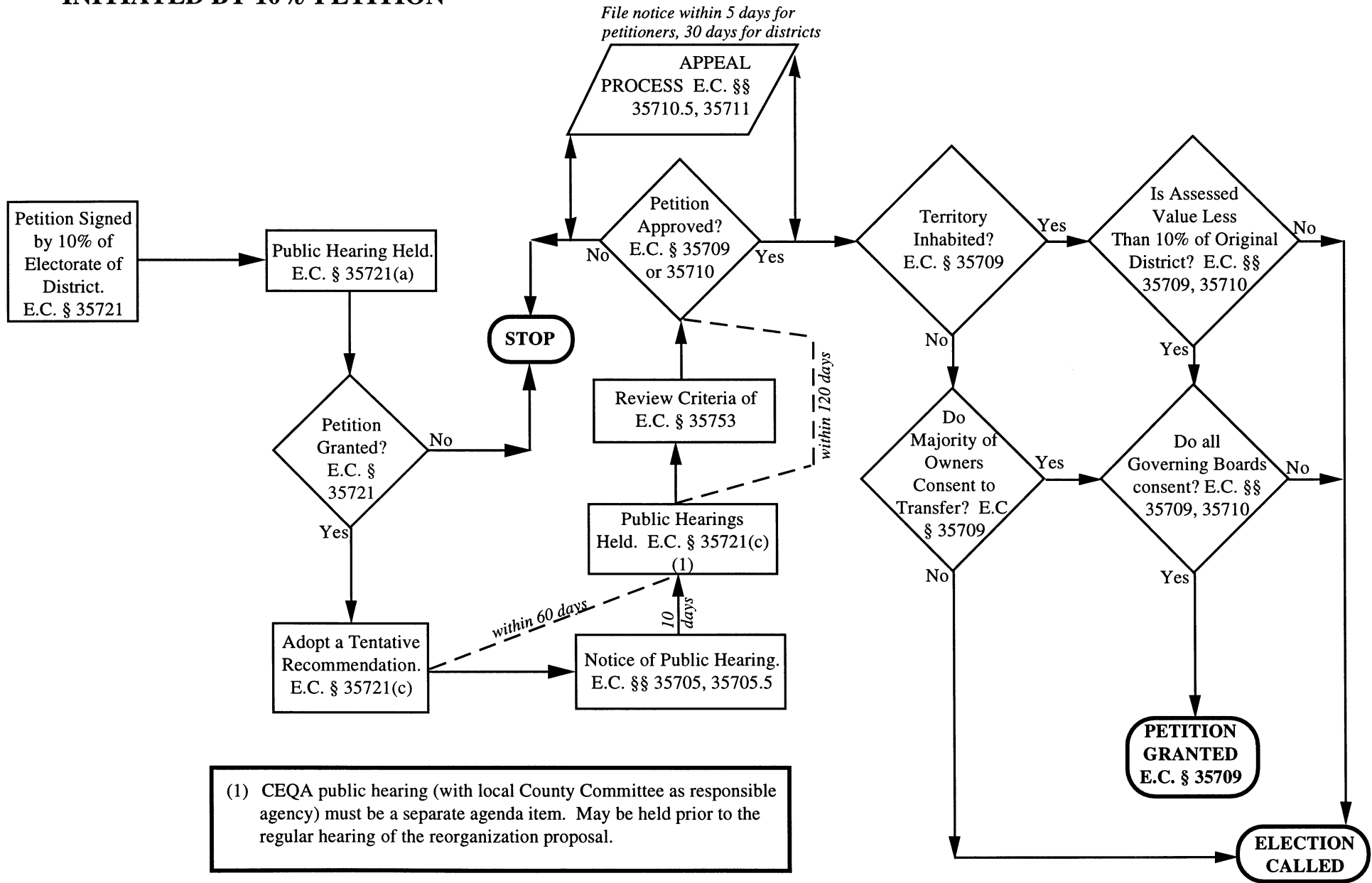
**TERRITORY TRANSFERS INITIATED BY  
A 10 PERCENT PETITION**

(See Flowchart C.)

1. Initiation of Proposals for Territory Transfer by Petition signed by 10 percent of the registered voters of the entire school district (EC 35721)
2. Preliminary Hearing of Petition (EC 35721[a])
  - a. Following the hearing, the county committee must grant or deny the petition.
  - b. If the petition is granted, the county committee must adopt tentative plans and recommendations.
3. Public Hearings (EC 35721[c]). A public hearing in the area proposed for reorganization must be held by the county committee within 60 days of adopting plans and recommendations.
4. CEQA Review (Public Resources Code sections 21000 through 21177). The county committee must determine the impact that the territory transfer will have on the environment and hold public hearings in conjunction with the reorganization hearing.
5. County Committee Study of the Territory Transfer (EC 35722, 35709, 35710). The county committee study must determine the impact of the territory transfer on the criteria listed in Education Code Section 35753.
6. Approval Process (EC 35709, 35710, 35722)
  - a. All territory transfers are settled at the local level.
  - b. Within 120 days of the first of any public hearings required by EC 35721(c), the county committee must approve or disapprove the petition.
  - c. If both of the following two conditions are met, the county committee may approve the territory transfer *without* an election:
    - i. The territory constitutes less than 10 percent of the assessed valuation of the district; and
    - ii. The governing boards of all affected school districts consent to the transfer.
  - d. For all other territory transfers, if the county committee approves the transfer, the county superintendent must call an election in the area as determined by the county committee.

# TERRITORY TRANSFER INITIATED BY 10% PETITION

## FLOWCHART C



## **B. Process: Quick-Reference Chart 5.4**

### **UNIFICATIONS INITIATED BY OWNERS OF UNINHABITED TERRITORY, A 25 PERCENT PETITION, OR A DISTRICT GOVERNING BOARD**

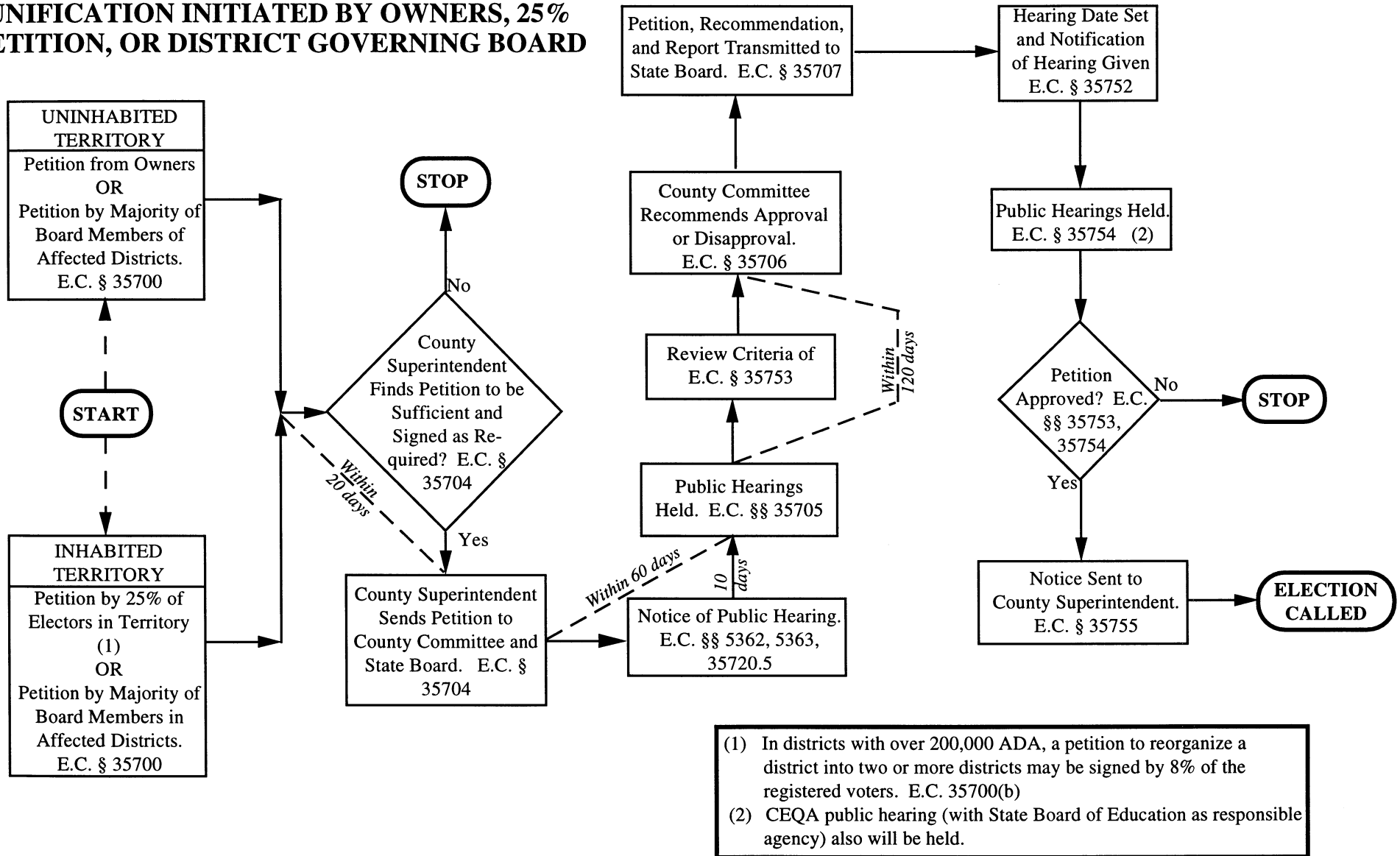
(See Flowchart D.)

1. Initiation of Proposals for Unification (EC 35700)
  - a. Petition signed by 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required) or
  - b. Petition signed by the owner(s) of uninhabited territory or
  - c. Petition signed by governing boards of all affected districts or
  - d. Petition signed by a number of registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election petition to reorganize a district with over 200,000 a.d.a. into two or more districts.
2. Determination of Sufficiency and Transmittal of Petition Within 20 days of Receipt (EC 35704)
  - a. County superintendent must determine sufficiency of petition within 20 days.
  - b. A 25 percent or 8 percent petition must be verified by the county department of elections.
  - c. The county committee and the State Board of Education must be apprised of a sufficient petition.
3. Public Hearings (EC 35705, 35705.5). A public hearing in each affected district must be held by the county committee within 60 days of receipt of the petition.
4. County Committee Study of the Unification (EC 35753). The county committee must determine the impact of the unification on the criteria listed in Education Code Section 35753.
5. Approval Process (EC 35706, 35707, 35752 through 35755)
  - a. Within 120 days of the first public hearing, the county committee must make a recommendation to approve or disapprove the petition.
  - b. The county committee may make a recommendation regarding the area of election.
  - c. The county committee transmits the petition, report, and recommendations to the State Board of Education.

- d. The State Board of Education holds public hearings on CEQA and the unification proposal.
- e. The State Board of Education approves or disapproves the petition.
- f. If approval is given, the county superintendent calls an election in an area determined by the State Board of Education.

# FLOWCHART D

## UNIFICATION INITIATED BY OWNERS, 25% PETITION, OR DISTRICT GOVERNING BOARD



**B. Process: Quick-Reference Chart 5.5**

**UNIFICATIONS INITIATED BY  
COUNTY COMMITTEE**

(See Flowchart E.)

1. Initiation of Proposals for Unification by County Committee Plans and Recommendations (EC 35720)
2. Public Hearings (EC 35720.5, 35721). The county committee is required to hold a public hearing in the area proposed for reorganization. It is recommended that this public hearing be held within 60 days of adopting a tentative recommendation.
3. County Committee Study of the Unification (EC 35722, 35709, 35710). The county committee study must determine the impact of the unification on the criteria listed in Education Code Section 35753.
4. Approval Process (EC 35722, 35752 through 35755)
  - a. Within 120 days of the first public hearing, the county committee may make a final recommendation.
  - b. The county committee may make a recommendation regarding the area of election.
  - c. The county committee transmits reports and recommendations to the State Board of Education.
  - d. The State Board of Education holds public hearings on CEQA and the unification proposal.
  - e. The State Board of Education approves or disapproves the petition.
  - f. If approval is given, the county superintendent calls an election in an area determined by the State Board of Education.



## **B. Process: Quick-Reference Chart 5.6**

### **UNIFICATIONS INITIATED BY A 10 PERCENT PETITION**

(See Flowchart F.)

1. Proposals for Unification
  - a. May be initiated by a petition signed by 10 percent of the registered voters of the entire district or
  - b. May be a petition signed by 5 percent of the registered voters to reorganize a district with over 200,000 a.d.a. into two or more districts
2. Preliminary Hearing of Petition (EC 35721[a])
  - a. Following the hearing, the county committee must grant or deny the petition.
  - b. If the petition is granted, the county committee must adopt tentative plans and recommendations.
3. Public Hearings (EC 35720.5, 35721). The county committee is required to hold a public hearing in the area proposed for reorganization. It is recommended that this public hearing be held within 60 days of adopting a tentative recommendation.
4. County Committee Study of the Unification (EC 35722, 35709, 35710). The county committee study must determine the impact of the unification on the criteria listed in Education Code Section 35753.
5. Approval Process (EC 35722, 35752 through 35755)
  - a. Within 120 days of the first public hearing, the county committee should make a recommendation to approve or disapprove the petition.
  - b. The county committee may make a recommendation regarding the area of election.
  - c. The county committee transmits the petition, report, and recommendations to the State Board of Education.
  - d. The State Board of Education holds public hearings on CEQA and the unification proposal.
  - e. The State Board of Education approves or disapproves the petition.
  - f. If approval is given, the county superintendent calls an election in an area determined by the State Board of Education.





## **C. Process: Expanded Details**

### **1. Initiation of Reorganization Proposals**

#### **a. County Committee Plans and Recommendations**

There are two ways in which a proposal for reorganization may begin at the county committee level. First, the county committee may propose reorganizations on its own initiative. Second, it must respond to directions of the State Board of Education to formulate plans and recommendations for the reorganization of the districts in the county, or any portion of it, including adjacent areas in other counties.

#### **b. Reorganizations Initiated by 10 Percent Petition**

After a public hearing, the county committee must recommend for or against reorganization proposals brought before the committee by a petition of 10 percent of an entire district's voters. For purposes of this handbook, a petition of 5 percent of the qualified electors in a school district with over 200,000 a.d.a. in which the petition is to reorganize the district into two or more districts is considered in the same manner as a 10 percent petition. If the 10 percent petition is granted pursuant to Education Code Section 35721(c), the county committee will take on the petition as its own recommendation.

#### **c. Reorganizations Initiated by Petitions, Owners of Uninhabited Territory, or Governing Boards**

The county committee on school district organization and the county superintendent of schools may be petitioned to initiate reorganization actions under sections 35700 and 35721 of the Education Code. A petition for reorganization may be signed by (1) the majority of owners of uninhabited territory; (2) 25 percent of the registered voters in the inhabited territory proposed to be reorganized (if the territory proposed for reorganization is located within two or more school districts, the signatures of at least 25 percent of the registered voters from that territory in each school district are required); (3) the majority of board members in *each* of the affected districts for both inhabited and uninhabited territory; or (4) registered voters equaling 8 percent of the number of votes cast in the last gubernatorial election for a petition to reorganize a district with over 200,000 a.d.a. into two or more districts. The petition must first be submitted to the county superintendent of schools for determination of sufficiency (see item 4 of this section, "Determination of Sufficiency of Electorate Petitions").

#### **d. Boundary Issues to Be Considered When Initiating a Reorganization**

- i. **Boundary Change Reorganization.** An action to transfer territory of a school district is an action to reorganize districts; it thus requires the approval of the county committee on school district organization. (EC 35511)
- ii. **Relationship of Elementary School District Boundaries to the High School Districts.** The boundaries of the component elementary school district must

be coextensive with the boundaries of the high school district in which it is included. Changes in any of the districts' boundaries must not alter this condition. (EC 35540, 35541) Whenever the boundaries of an elementary and a high school district become coterminous, the districts are considered merged into one unified district. (EC 35542)

- iii. Elementary School District Exclusions to Unification. Recent changes to the Education Code allow an elementary school district completely within the boundaries of a high school district to be excluded from an action to unify the portion of the high school district in which it is contained. The request for the State Board of Education to approve this exclusion must be part of the unification proposal submitted to the State Board. Appropriate staff from the California Department of Education should be consulted when this type of unification is considered. (EC 35542)
  - iv. Leapfrogging Prohibition. On or after January 1, 1981, no school district may be newly formed or reorganized so that any portion of it is completely separated by territory of another school district. (EC 35543)
  - v. Area Adjustments After Reorganization. Prior to the effective date of a reorganized district, the county committee may approve plans to subsequently reorganize any or all of the district. However, during the first five years after a district's formation, no territory may be removed from it without the consent of its governing board. (EC 35545)
  - vi. Charter Cities. The Legislature repealed the requirement that territory within the boundaries of a city which provided for a school district's board in its charter could not be removed from that district without the approval of that school board. (EC 35546, repealed, effective January, 1996)
2. Contents of Plans, Petitions, and Recommendations

Certain information is required in a petition for reorganization, but very little is required of a county committee plan or recommendation.

- a. Three items of basic information that should be included in both a petition or a county committee plan or recommendation are:
  - i. A legal description and map of the territory to be covered by the proposed action (Government Code Section 58850 et seq.)
  - ii. A list of school districts affected by the proposal
  - iii. The reasons for the proposed reorganization

Note: The legal description and map must conform to State Board of Equalization guidelines (see Appendix D). County offices of education in the state have varying policies regarding responsibility (including fiscal) for developing the legal description and map. The county committee secretary of the county office of education should be consulted.

- b. The following items must be part of any petition filed under EC 35700:
  - i. A designation of no more than three of the petitioners as chief petitioners for the purpose of receiving notification of public hearings and other pertinent information. This applies to any person(s) or entities signing a petition pursuant to Education Code Section 35700. (EC 35701)
  - ii. An affidavit that all signatures on the petition are genuine signatures and were obtained in the presence of the petition circulator. (EC 35702)
- c. The items of information listed below are suggested for inclusion in the county committee's plans and recommendations. The nine items in EC 35705.5, while not required to be in the plan, must be made available to the public and governing boards of affected districts. Any of these items may come from the petition as submitted or may be included or amended by the county committee. (EC 35705.5)
  - i. Whether the district's governing board(s) will be a city board of education controlled by a city charter or a separate board governed by general laws. (If not stated, it will be a general law district.) (EC 35730)
  - ii. Whether there shall be a seven-member board. (If not stated, there will be five members.) (EC 35731)
  - iii. The territory in which the election to reorganize the school districts will be held. (EC 35732)
  - iv. If the recommendation involves splitting an existing district into two or more districts, whether they will be voted on as a single issue. (EC 35733)
  - v. Whether the trustee areas are to be designed according to general or specific population and geographic factors. Any such provision must also specify the trustee area boundaries and whether board members will be elected at large or only by voters from that respective trustee area. In the absence of any provisions, the proposed district must have members elected at large. (EC 35734)
  - vi. A computation of the revenue limit per average daily attendance (a.d.a.) for the proposed new district(s). This must be included in a county committee recommendation. (EC 35735, 35735.1) (See Chapter 9, Section D, "Revenue Limit of New District," for a description of the revenue limit computation.) The reorganized district cannot have a revenue limit greater than that set forth in the approved proposal. The revenue limit may be changed by other adjustments authorized by law. (EC 35735.1)
  - vii. A proposal for dividing the property (other than real property) and obligations. (EC 35736)
  - viii. When a new school district is being formed, whether the first governing board will be elected at the same election as the reorganization proposal and, if so, a method for determining the length of the terms of the initial members.

(If not specified, the first governing board will be elected at the first regular election after the passage of the reorganization proposal.) (EC 35737)

- ix. A method of dividing the bonded indebtedness other than the method specified in the Education Code. (EC 35576, 35738) The advice of bond counsel is recommended.
- x. A method of exchanging property tax revenue pursuant to Section 99 of the Revenue and Taxation Code.
- xi. Whether each new district created in the reorganization of a school district with more than 500,000 pupils meets the following conditions (EC 35730.1):
  - (a) Socioeconomic diversity
  - (b) Geographical compactness
  - (c) Equity of resource distribution
  - (d) Compliance with *Crawford v. Board of Education* and the terms of the consent decree in *Rodriquez v. LAUSD*.
  - (e) Preservation of the policies used by magnet schools, charter schools, site-based management initiatives, and the LEARN program.
  - (f) Compliance with the Individuals with Disabilities Education Act.
  - (g) Compliance with the federal Voting Rights Act of 1965.
  - (h) The formation of the new school districts does not result in the diminution of minority protections.
  - (i) The maintenance of the conditions of all collective bargaining agreements until their expiration.
  - (j) Recognition of the existing retiree health, dental, and vision care benefits.

Obviously, the area to be reorganized must be defined in order for a determination to be made that 25 percent of the voters residing in that area have signed the petition.

### 3. Signing the Petition

The signatures to the petition need not all be appended to one page. If the territory included in the petition is situated in more than one county, the signatures on each page of a petition must be those of residents of only one of the counties. Of the signatures appended to such pages, only the signatures of the voters of the county designated will be valid. In addition to signing the petition, each signer must include his or her printed name and place of residence, giving street address and city. (Elections Code Section 104) If no street or number exists, the place of residence must be designated so that the location can be readily ascertained. A space of at least one inch must be left blank after each name for the use of the clerk in verifying the petition. The spaces for signatures must be numbered consecutively. Elections Code

Section 104(a)(3) contains additional requirements regarding recording of dates of the signatures.

Each section of the petition must have a declaration attached to it. The affidavit must state that the person securing the signatures to the petition is a registered voter, that all persons who signed the petition did so in the presence of the circulator, and that each signature is the genuine signature of the person whose name it purports to be. The circulator of the petition must also state the date and place of execution immediately upon signing the petition. (EC 35702 and Elections Code sections 102 and 104)

A sample petition is included in Appendix E. These petitions are used in various counties and may or may not meet the requirements for valid petitions in all counties. The county committee secretary and/or county clerk, recorder, or registrar of voters should be consulted to determine requirements for valid petitions in a particular county.

Petition circulators may register voters as they collect signatures. (Elections Code Section 2158) Generally, the following conditions apply to this registration of voters:

- a. If the petition circulator collects the new registrations, he or she must submit them to the county clerk, recorder, or registrar of voters within three days (Elections Code Section 2138).
- b. If the newly registered voters submit their own registrations, the registrations must be received by the county clerk, recorder, or registrar of voters prior to the petition being submitted for validation.
- c. Signatures of newly registered voters should be identified on the petition. The county clerk, recorder, or registrar of voters should be consulted to determine how these conditions, and/or others apply in a particular county.

#### 4. Determination of Sufficiency of Electorate Petitions

The county superintendent of schools has 20 days after the petition for reorganization has been filed to examine the petition and determine whether it is sufficient and signed as required by law. (EC 35704) The county superintendent of schools transmits any petition signed by registered voters to the county department of elections and records for verification of signatures. The county clerk, recorder, or registrar of voters examines the signatures and, from the records of registration, ascertains whether the petition is signed by the requisite number of valid registered voters. Then the county clerk attaches his or her certificate to it showing the results of the examination. If the number of verified signatures is insufficient, no further action is taken.

If the territory included in the petition is situated in more than one county, each petition must be presented to the county superintendents of schools concurrently in each county. The sufficiency of the petition must be determined jointly by the county superintendents who have jurisdiction over the districts in which any petitioner resides. (EC 35521)

Upon determining the sufficiency of the electorate petition, the county superintendent of schools must transmit the petition simultaneously to the county committee and the State Board of Education. (EC 35704)

On January 18, 1997, the Shasta County Superior Court issued a Memorandum of Decision on a number of questions concerning a petition from 25 percent of the electorate pursuant to Education Code Section 35700(a) (*Shasta Union High School District v. Shasta County Superintendent of Schools, et al.* No. 131103). Neither party has yet filed a motion of appeal. Although this decision cannot be cited as precedent, the questions raised are novel and the opinion may serve as a guideline with the assistance of the county committee's attorney:

a. "Revival" of a Resubmitted Petition

In this instance, the petition for reorganization of the district was originally submitted for sufficiency more than a year earlier. It was found to be lacking in the number of required signatures and was rejected. Additional signatures were obtained, and the same petition, as augmented, was resubmitted. There is no authority that either prohibits a resubmission of a petition or authorizes it. The court is of the view that the petition, once submitted and rejected, was not "extinguished" or "invalidated." Accordingly, no act to "revive" it was necessary before it could be resubmitted with the added signatures.

b. Staleness of Signatures

Unlike other petition proceedings authorized by the Education Code that call for a specific time period within which signatures might be gathered, the procedure for petitioning to reorganize one or more districts set forth within Education Code Section 35700 et seq. contains no time limitation. None should be inferred. The absence of such a time limit is justified because the petition procedure itself does not result in an immediate submission to the electorate, but, rather, it triggers an extensive hearing process during which the petition can be carefully scrutinized before it is ever allowed to go to election. Moreover, because the Legislature, in its establishment of other types of petition procedures, specifically set time limits but chose not to do so in connection with petitions for reorganization, no time limit was intended.

c. Date on Which Persons Signing the Petition Were Registered Voters

In considering a petition as submitted for its sufficiency pursuant to Education Code Section 35704, the date that the petition is submitted is the date to be used to determine (1) the number of registered voters in the subject territory upon which the 25 percent is calculated; and (2) whether the persons who signed the petition remain registered voters residing in the territory. This conclusion is supported by reason of (1) the absence of a timeline for the gathering of signatures concerning petitions for reorganization; and (2) the potential for a distortion, with the passage of time, in the number of registered voters within a district who actually support a reorganization.

d. Sufficiency of the Petition for Reorganization

Education Code Section 35704 states that once the petition is received by the county superintendent of schools, it is to be examined and the superintendent is thereafter to transmit the petition to both the county committee and to the State Board of Education, provided that the petition is found by the superintendent “to be sufficient and signed as required by law.”

One argument may be that a petition to reorganize may not be found to be “sufficient” if it violates substantive law, even though it may otherwise meet the procedural specifications set forth within Education Code Section 35700 (pertaining to the percentage of registered voters who must sign the petition), Section 35701 (pertaining to the requirement that no more than three of the petitioners shall be designated as chief petitioners for notice purposes), Section 35702 (requiring an attached affidavit concerning the genuineness of the signatures of those signing the petition), and Section 35703 (allowing certain matters to be included on the petition). The more reasonable interpretation is that it is only these procedural requirements that must be considered by the county superintendent in determining whether such a petition is “sufficient” to be passed on to the county committee and the State Board. Were it otherwise, the extensive process for a review, both at the county and state levels, would be unnecessary in any case in which a dispute arose concerning the lawfulness of the proposed activity.

There are points in the process during which the county committee can recommend against the reorganization petition and the State Board of Education can disapprove it. Within this broad scheme, it does not seem logical that the county superintendents of schools were intended by the Legislature to be placed in the role of being substantive law “gatekeepers.” Rather, it appears that the involvement of the superintendent is established to ensure the existence of support amongst the citizens in the affected territory in the proposed action. The illegality of the proposed reorganization is not an issue that the county superintendent must decide in determining the sufficiency of a petition for school district reorganization.

5. County Committee Review

a. Adoption of Tentative Recommendations by the County Committee

The county committee, on its own volition, may adopt a tentative recommendation for reorganization of an area. Following adoption of a tentative recommendation, the county committee must hold one or more hearings in the area proposed for reorganization and recommend approval or disapproval of the petition to the State Board of Education or to disapprove or approve a proposal to transfer territory. The county committee must determine the impact that a territory transfer will have on the environment. (The State Board of Education is responsible for the CEQA process for unification proposals.) It is suggested that the timelines for the portion of the review process following the adoption of the



tentative recommendation correspond to the timelines of the review process for a 25 percent petition as outlined in item 5c of this section. (EC 35720.5, 35721, 35722, and Public Resources Code sections 21000 through 21177)

b. 10 Percent Petition Review Process

If the proposal is a 10 percent petition (pursuant to item 1b of this section), the county committee shall hold a public hearing on the proposal at a regular or special meeting. Following this hearing, the county committee may approve the proposal and adopt it as its own tentative recommendation. If, after the hearing, the county committee does *not* approve the proposal, further action on the proposal is halted.

c. 25 Percent Petition Review Process

After a 25 percent petition (pursuant to item 1c of this section) has been received by the county committee, the committee has a maximum of 60 days within which to hold public hearings in each affected school district and 120 days after the first public hearing to recommend approval or disapproval of the petition to the State Board of Education or to disapprove or approve a proposal to transfer territory. The county committee must determine the impact that a territory transfer will have on the environment. (The State Board of Education is responsible for the CEQA process for unification proposals.) (EC 35705, 35706, and Public Resources Code sections 21000 through 21177)

- d. It may be that a petition circulated for signature by 25 percent of the registered voters will fail to reach that percentage but does include signatures of at least 10 percent of the voters. The opinion of the Legal Office of the Department of Education is that the petition cannot be filed as a 10 percent petition because the voters signed the petition in reliance of what was represented, specifically that it was a 25 percent petition. It cannot be concluded that any one or more of those voters would have signed a 10 percent petition.

e. Public Description of the Petition

Ten days prior to holding public hearings, the county committee must make available a public description of the petition that includes all of the following (EC 35705.5):

- i. Notice of the rights of the employees in the affected districts to continued employment
- ii. The revenue limit per unit of a.d.a. for each affected district and the effect of the petition, if approved, on such revenue limit
- iii. Whether the districts involved will be governed in part by provisions of a city charter and, if so, in what way
- iv. Whether the governing boards of any proposed new district will have five or seven members

- v. A description of the territory or districts in which the election, if any, will be held
- vi. Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition
- vii. Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire district
- viii. A description of how the property, obligations, and bonded indebtedness of existing districts will be divided
- ix. A description of when the governing board of any new district will be elected and how the terms of office for each new trustee will be determined

At this time, the county committee need not provide an analysis of other factors relevant to reorganization, such as the ethnic and racial effects, if any, resulting from such a reorganization. The committee may wish to include an analysis of all other criteria for approval of a reorganization proposal by the State Board of Education, including a description of the effects on ethnic and racial integration. (See Education Code Section 35753 and 5 CCR Section 18573 in Appendix A for a description of the criteria.)

It is recommended that a map and legal description of the proposed reorganized boundaries of the district be submitted to the county assessor or surveyor of the county in which all or part of the district may be located. The purpose of this submission is to obtain a verification of boundary descriptions for their accuracy and completeness.

f. Public Hearings

See Section A, “Public Hearings,” in Chapter 7 and Section D, “Environmental Concerns,” in this chapter.

6. Approval of the Proposal

Within 120 days after holding the first public hearing on the proposed reorganization, the county committee must recommend approval or disapproval of a proposal for unification or approve or disapprove a territory transfer. (EC 35706) For all proposals or petitions that are not petitions to transfer territory, the petition and county committee recommendations must be transmitted by the county committee to the State Board of Education.

If the proposal is solely for the purpose of a territory transfer between or among districts, the issue will be settled at the local level.

a. Local Approval Method

In cases of the transfer of uninhabited territory or inhabited territory that constitutes less than 10 percent of the assessed valuation of the original district

and where the majority of owners of the territory and all the involved governing boards agree, the county committee may approve the petition provided it finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Education Code Section 35753 are substantially met. In such cases there would be no election. (EC 35709)

For all other cases involving territory transfer, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Education Code Section 35753 are substantially met, the county committee may approve the proposal and, if approved, must notify the county superintendent of schools, who must call an election in the territory of the districts as determined by the county committee. It is recommended that the area of the election be determined at the time the committee approves the petition. (EC 35710)

Although the county committee has no local approval authority over unification proposals, it is required to consider all such proposals and make a recommendation to the State Board of Education. In its consideration of the unification proposal, the county committee must consider whether the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Education Code Section 35753 are substantially met. Following this consideration, the county committee must recommend approval or disapproval of the unification proposal (EC 35706) and transmit the proposal, its recommendation, and a report of its findings to the State Board of Education. (EC 35707) The county committee also may include a recommendation for the area of election in the event the State Board of Education approves the proposal.

Appendix E, “Criteria Affecting Reorganization Proposals,” provides a sample process that can be used by the county committee when it applies the criteria of Education Code Section 35753 to a proposal under review. This sample process also addresses the options of a county committee to disapprove a proposal when all criteria of Education Code Section 35753 have been met or to approve a proposal when certain criteria of Education Code Section 35753 have not been met. Within this process, it is recommended that the county committee take a separate vote on each criterion.

b. State Board of Education Review

Upon receiving the plans and recommendations for a proposal from the county committee, the State Board of Education will hold public hearings on all petitions other than those involving transfer of territory.

The State Board of Education may also review a petition for any reorganization (including a territory transfer) upon an appeal by the chief petitioners or the affected school districts (EC 35710.5). Appeals of decisions by county committees to the State Board of Education are also allowed under the provisions of Education Code Section 35711.

The State Board may approve proposals for the reorganization of districts if the board has determined that certain conditions with respect to the proposal and the

resulting districts are substantially met. (EC 35753) Those conditions, the statutes and regulations governing the conditions, and guidelines to evaluate the conditions are found in Chapter 6, “Legal Criteria Governing Reorganization Proposals.”

The State Board may prescribe other criteria by regulation and may also decide that the criteria of Education Code Section 35753(a) cannot be applied literally and that circumstances are sufficiently exceptional to justify the proposal on other grounds. (EC 35753[b]) (For more detail, see State Board conditions in Appendix A and Appendix E.)

7. Elections. See Chapter 7, Section B, “Elections.”

8. Notifications to Local, County, and State Governmental Agencies (EC 35765)

The county board of supervisors must file a copy of the order and a map or plat of the reorganized territory conforming to State Board of Equalization requirements with the appropriate local, county, and state government agencies upon any successful reorganization of school districts. (See Appendix D.) Those agencies usually include:

- a. Affected school districts
- b. County superintendent of schools
- c. County board of supervisors
- d. County assessor
- e. County auditor
- f. County registrar of voters
- g. County counsel
- h. County treasurer
- i. State Board of Education
- j. State Board of Equalization Tax Area Services Section (See Government Code Section 54903.1 and Appendix D for Schedule of Processing Fees.)

A fee generally is required to be submitted when filing with the State Board of Equalization. The county committee secretary at the local county office of education should be consulted to determine who has fiscal responsibility for this fee.

Current State Board of Equalization procedures require filing to be completed prior to December 1 for a reorganization to be effective for all purposes on the subsequent July 1. This filing deadline may be difficult to meet when a November election is involved. It may be possible to file with the State Board of Equalization prior to final certification of election results. The Tax Area Services Section supervisor should be consulted regarding this possibility and for further details.

- k. State Superintendent of Public Instruction
- l. Office of Public School Construction (if the reorganization affects outstanding bonds and state loans for building purposes)
- m. State Allocation Board

Education Code sections 1043 and 1080 allow the transfer of responsibilities of the county board of supervisors to the county board of education. In those counties in which such action has resulted in the responsibilities for school district organization being transferred to the county board of education, notification of a school district reorganization to the agencies listed in (a) through (m) above may be the responsibility of the county office of education. Failure to notify the State Board of Equalization by December 1 of the calendar year prior to the year in which the reorganization is scheduled to be effective for all purposes will delay the effective date of the reorganization for a year. (EC 35534)

#### **D. Environmental Concerns**

##### **1. Background**

This section provides a general overview of the California Environmental Quality Act (CEQA). It is not intended to be comprehensive in describing all laws and regulations that may apply. Consultation with legal counsel experienced in CEQA is recommended. Included here is a sample procedure. Counties may have differing procedures based on their legal counsel's advice.

*In Fullerton Joint Union High School District v. State Board of Education* (1982), 32 C. 3d 779, 187 Cal. Rptr. 398, the Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of CEQA and that the State Board of Education, as the state agency making the ultimate decision prior to the election, is the lead agency. As such, it is required to consider the impact of the reorganization on the environment.

There are two basic steps to comply with CEQA. (Public Resources Code Section 21000 et seq.) First, the lead agency must conduct an initial study to determine whether the proposed project (i.e., reorganization) may have a significant impact on the environment. The county committee is the lead agency regarding transfers of territory because it is the agency responsible for issuing the final decision approving the transfer (the project). If no substantial evidence exists to indicate the project would have such an effect, the agency must provide public notice of its intention to prepare a negative declaration. See Appendix F for a sample notice. The notice describing the project, the intention to prepare a draft negative declaration, and a copy of the initial study must be posted for 30 days in the office of the county clerk. Before reaching a final determination, the lead agency must consider any comments submitted during the public review period.

Second, if the lead agency determines that there may be a significant effect on the environment, it must prepare or have prepared a full environmental impact report (EIR)

before it considers the proposed project. See also the *CEQA Guidelines* in California Code of Regulations, Title 14, Section 15000 et seq. The lead agency may adopt a project in spite of a significant effect on the environment, but it must consider those implications in making its decision. With one exception, when a full EIR was required by the State Legislature, there has never been a full EIR conducted for a school district reorganization project.

When the State Board of Education considers a proposed reorganization, it conducts an initial study to consider the factors listed in the Environmental Checklist Form in Appendix G. When it concludes that those factors will not adversely affect the environment, it adopts a resolution of negative declaration before proceeding to consider the merits of the plan or petition.

When the initial study is conducted for proposals on transfers of territory, a form similar to the Environmental Checklist Form in Appendix G should be completed.

As of the writing of this handbook, a pending rule by the Resources Agency of the State of California would remove reorganization of a school district from the definition of a project. If this rule is adopted, no filing of any CEQA documents would be required.

## 2. Process: Quick-Reference Chart 5.7

### CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCESS

(See Flowchart G.)

- a. If the State Board of Education considers a proposed reorganization, it is considered the lead agency and conducts the initial study. If the county committee considers a proposal to transfer territory, the committee is considered the lead agency and should conduct the initial study. A form similar to the Environmental Checklist Form in Appendix G should be completed by the lead agency.
  - i. The staff of the lead agency considers the factors in the Environmental Checklist Form (Appendix G); if it determines that there is no significant effect on the environment, then the staff should prepare a Notice of Preparation of Draft Negative Declaration. (See Appendix F for a sample form.) An explanation for every answer on the checklist that is marked “yes” or “maybe” must be attached.
  - ii. At least 30 days prior to a hearing, the staff files copies of both the Notice of Preparation of Draft Negative Declaration and the Environmental Checklist Form with:
    - (a) The county clerk of each affected county
    - (b) Each affected school district
    - (c) Chief petitioners
    - (d) Persons who requested notice
  - iii. The lead agency places a public notice of hearing in a newspaper of general circulation. The time frame for running a notice is not specified by law. Usually, 21 days is sufficient.
  - iv. The lead agency should place the item on the county committee public hearing agenda.
  - v. The lead agency conducts the CEQA hearing.
    - (a) The CEQA hearing is held just prior to the hearing regarding the reorganization proposal.
    - (b) The agency must formally open the public hearing and provide members of the public an opportunity to testify on any environmental impacts.
    - (c) If time permits, the agency should indicate that testimony will be considered and formally responded to in writing.
    - (d) The agency must formally close the hearing.

- vi. A county committee, if the facts are appropriate, makes a formal determination that the negative declaration is adopted.
- vii. Once a county committee has decided to approve a territory transfer, it must prepare and file a Notice of Determination (see Appendix H for a sample form) and a Certificate of Fee Exemption (de minimis impact finding) (see Appendix I for a sample form) with:
  - (a) The county clerk of each affected county
  - (b) Each affected school district
  - (c) Chief petitioners





## **E. School District Organization Checklists**

Checklists are provided to help county office of education staff and county committees ensure that the necessary tasks associated with school district organization are completed on time. Two checklists are included: one for the territory transfer process and one for the unification process.

**Table 5.1**  
**Territory Transfer Checklist**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
<b>PETITION (Complete all items within 20 days of receipt of petition)</b>				
Verify petition—Contains legal description and map, a list of school districts affected, and reasons for proposed reorganization. (3 chief petitioners)	GC 58850 EdC 35703			
Verify—Boundaries of any new elementary school district must be coextensive with the high school district.	EdC 35542			
Verify—Territory in petition is contiguous (leapfrogging prohibition)	EdC 35543			
Examine previous reorganization history of territory. During first five years of a district's formation, territory may not be removed without board approval.	EdC 35545			
Verify signatures on petition (within 20 days of receipt)—Send to county registrar, elections clerk.	EdC 35704 ElecC 105			
Notify—Send copy of petition to county committee and State Board of Education	EdC 35704			
<b>PUBLIC HEARINGS (Complete all items within 60 days of verification of petition)</b>				
Schedule—Public hearings, CEQA hearings in affected school districts within 60 days of verification of petition.	EdC 35720.5 EdC 35721			
Calculate base revenue limit of proposed new district.	EdC 35735 EdC 35735.1 EdC 35705.5			

*(Continued on next page)*

**Table 5.1 (Continued)**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
Complete Environmental Checklist.	_____			
Provide public notice of intent to adopt a negative declaration (must be posted in county clerk's office for 30 days prior to public hearing).	_____			
File copies of notice of intent with county clerk or recorder of each affected county, each affected school district, chief petitioners, and others who request notice.	_____			
Provide notice of CEQA public hearing 21 days prior to public hearing. Post notice in general circulation newspaper, at schools, and district office in affected school districts.	_____			
Provide notice of regular public hearing 10 days prior to public hearing. Include description of the petition pursuant to EC 35705.5.	EdC 35705.5			
Review guidelines for holding public hearings with county committee.	_____			
Hold CEQA public hearings—Adopt negative declaration.	_____			
Hold regular public hearing.	_____			
<b>COUNTY COMMITTEE ACTION (Complete all items within 120 days of first public hearing)</b>				
Conduct study of reorganization proposal addressing EC35753.	EdC 35753			
Prepare written report of results of study.	EdC 35753			
Schedule county committee meeting for approval/disapproval of petition.	_____			
Send notification of county committee meeting.	_____			

**Table 5.1 (Continued)**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
County committee approves/disapproves petition.	EC 35709 EC 35710 EdC 35753			
If transfer approved, county committee determines area of election.	EdC 35710			
Submit report of county committee action with all documentation of State Board of Education.	EdC 35707			
<b>ELECTION (if required)</b>				
Determine if election is required. <ul style="list-style-type: none"> <li>• Do all affected governing boards support transfer?</li> <li>• Is assessed valuation of territory less than 10% of original district?</li> </ul>	EdC 35710 EdC 35756			
Notify Office of Public School Construction and State Allocation Board of election.	_____			
County superintendent calls election.	EdC 35710 EdC 35756			
Maintain contact with registrar of voters.				
Prepare statement of official information and statistics relating to proposed reorganization.	EdC 35757			
Prepare arguments for and against ballot measure.	EdC 35758			
Affected districts and petitioners and other interested parties are made aware of their rights and the process to file arguments for and against the measure.	EdC 35758 ElecC 9501			
Notification of election results.	EdC 35763			

*(Continued on next page)*

**Table 5.1 (Continued)**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
<b>FOLLOWING APPROVAL</b>				
File Notice of Determination and a Certificate of Fee Exemption ( <i>de minimis</i> impact finding) if transfer approved.	_____			
File proof of county committee approval, map, and description of reorganized area with:	_____			
• Affected school districts				
• County superintendent of schools	_____			
• County board of supervisors	_____			
• County assessor	GC 54900			
• County auditor	GC 54900			
• Registrar of voters/elections officer				
• County treasurer	GC 54900			
• State Board of Education	_____			
• State Office of Local Assistance (if affects outstanding bonds and state loans for building purposes)	_____			
• County counsel	_____			
• State Board of Equalization (include required processing fees)	GC 54900			
• State Superintendent of Public Instruction	GC 54903.1			
• State Allocation Board	_____			
• Office of Public School Construction	_____			

**Table 5.2**  
**Unification Checklist**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
<b>PETITION (Complete all items within 20 days of receipt of petition)</b>				
Verify petition—Contains legal description and map, a list of school districts affected, and reasons for proposed reorganization. (3 chief petitions)	GC 58850 EdC 35703			
Verify—Boundaries of any new elementary school district must be coextensive with the high school district.	EdC 35542			
Verify—Territory in petition is contiguous (leapfrogging prohibition).	EdC 35543			
An elementary school district totally within the boundaries of a high school district may be excluded from an action to unify those districts if the governing board receives approval from the State Board of Education.	EdC 35542			
Examine previous reorganization history of territory. During first five years of a district's formation, territory may not be removed without board approval.	EdC 35545			
Verify signatures on petition (within 20 days of receipt) and send to county registrar, elections clerk.	EdC 35704 ElecC 105			
Notify—Send copy of petition to county committee and State Board of Education.	EdC 35704			

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**Table 5.2 (Continued)**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
<b>PUBLIC HEARINGS (Complete all items within 60 days of verification of petition)</b>				
Schedule public hearings in affected districts within 60 days of verification of petition.	EdC 35720.5 EdC 35721			
Calculate base revenue limit of proposed new district.	EC 35735 EdC 35735.1 EdC 35705.5			
Provide notice of regular public hearing 10 days prior to public hearing. Include description of the petition pursuant to EC 35705.5.	EdC 35705			
Review guidelines for holding public hearings with county committee.				
Hold public hearing.	EdC 35705			
<b>COUNTY COMMITTEE ACTION (Complete all items within 120 days of first public hearing)</b>				
Conduct study of reorganization proposal addressing EC 35753.	EdC 35753			
Prepare written report of results of study.	EdC 35753			
Schedule county committee meeting for approval/disapproval of petition.				
Send notification of county committee meeting.				
County committee recommends approval/disapproval of petition.	EdC 35706			



Submit report of county committee action with all documentation to State Board of Education.	EdC 35707			
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**Table 5.2 (Continued)**

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
<b>ELECTION (Upon notification by State Board of Education)</b>				
County superintendent calls election.	EdC 35756			
Notify Office of Public School Construction and State Allocation Board of election.	_____			
Maintain contact with registrar of voters.	_____			
Prepare statement of official information and statistics relating to proposed reorganization.	EdC 35757			
Prepare arguments for and against ballot measure.	EdC 35758			
Affected districts and petitioners and other interested parties are made aware of their rights and the process to file arguments for and against the measure.	EdC 35758 ElecC 9501			
Notification of election results	EdC 35763			
<b>FOLLOWING APPROVAL</b>				
File proof of county committee approval, map, and description of reorganized area with:	_____			
• Affected school districts				
• County superintendent of schools	_____			
• County board of supervisors	_____			
• County assessor	GC 54900			

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**Table 5.2** *(Continued)*

	<b>Code Reference</b>	<b>Completion Date</b>	<b>Responsible Party</b>	<b>Comments</b>
• County auditor	GC 54900			
• Registrar of voters/elections officer	_____			
• County treasurer	GC 54900			
• State Board of Education	_____			
• State Office of Local Assistance (if affects outstanding bonds and state loans for building purposes)	_____			
• County counsel	_____			
• State Board of Equalization (include required processing fees)	GC 54900			
• State Superintendent of Public Instruction	GC 54903.1			
• State Allocation Board	_____			
• Office of Public School Construction	_____			